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DATE: DECEMBER 21, 2007

TO: OBSTETRIC HEALTH CARE PROVIDERS

SUBJECT: RECENT CHANGES IN CALIFORNIA LAW REGARDING HIV TESTING FOR PREGNANT WOMEN

The California Department of Public Health (CDPH), Office of AIDS (OA) is pleased to announce the passage of Assembly Bill (AB) 682 (Berg). With the implementation of this legislation on January 1, 2008, California obstetric health providers can fully adopt the current best practices and community standards of care that will decrease HIV transmission from a pregnant woman to her baby. These best practices have been endorsed by the Academy of Obstetricians and Gynecologists, the American Academy of Pediatrics, and are the recommendations of the Centers for Disease Control and Prevention.

### Prenatal HIV Testing

AB 682's HIV testing provision will help eliminate barriers to pregnant women receiving an HIV test during prenatal care. During prenatal care, pregnant women will be informed about HIV testing and that they can decline testing. **However, pregnant women will not longer be required to provide written consent or refusal of HIV testing.** This change was made to increase HIV testing during prenatal care so that women found to be HIV positive will have the best treatment options available to diminish the risk of transmitting HIV to their infants. An information sheet providing the information women need to receive when HIV testing will be available on the OA Web site as of January 1, 2008.

### Reporting Prenatal HIV Test Results to Labor and Delivery

Current California law allows inclusion of a person's HIV test result in his/her medical record. This is not considered a disclosure under Health and Safety (H&S) Code Section 120980. H&S Code Section 120985 permits a physician who orders an HIV test to record the results in the patient's medical record, or otherwise disclose it without written

authorization to the patients' health care providers for the purpose of diagnosis, care, or treatment of that patient. This includes the disclosure of HIV test results from prenatal care providers to labor and delivery services. Labor and delivery services need a pregnant woman's HIV test results so that a woman who is HIV positive can be offered treatment that can greatly reduce the likelihood that the woman will transmit HIV to her newborn.

### **Rapid HIV Testing in Labor and Delivery**

AB 682 also states that if a woman does not have an HIV test documented in her prenatal record at the time of labor and delivery, she should be informed about HIV and her right to decline HIV testing. If the woman orally accepts testing, she should then receive an HIV test **"by a method that will ensure the earliest possible results."** Currently, there are six HIV tests available that can provide preliminary results within 20 minutes; therefore, hospitals must be able to provide rapid HIV testing in labor and delivery. If a woman receives appropriate HIV treatment during labor and delivery, she can decrease by half her chances of transmitting HIV to her infant.

CDPH/OA is available to assist you in any way with the implementation of AB 682. Please contact Kama Brockmann of my staff at (916) 449-5964 or [Kama.Brockmann@cdph.ca.gov](mailto:Kama.Brockmann@cdph.ca.gov), if you have any additional questions regarding pregnant women and HIV testing in prenatal care or labor and delivery.

A handwritten signature in dark ink, appearing to read "Michelle Roland".

Michelle Roland, MD, Chief  
Office of AIDS